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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,805	07/28/2000	Michael L. Asmussen	5220.00	3499

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT PAPER NUMBER

2611

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/628,805	Applicant(s) ASMUSSEN, MICHAEL L.	
	Examiner Hunter B. Lonsberry	Art Unit 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.


Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.


 CHRIS GRANT
 PRIMARY EXAMINER

Continued from above:

Applicant argues that neither Alexander nor Rangan discloses a video object which could be selectively assigned using a retrieval plan at a terminal, and there is no motivation to combine the references as they are directed to different problems, and the references teach away from one another as Alexander has fixed advertisements and Rangan places the content anywhere on the screen (pages 18-20).

Regarding applicant's argument, Alexander teaches the use of a retrieval plan (column 33, lines 44-65), which is utilized to place advertisements in a virtual advertising spot 12/16 in figure 1. Alexander fails to disclose providing a retrieval plan and video program to the terminal and determining the placement of a virtual advertisement spot in a video program. Rangan discloses a method for adding text overlays, graphic icons and logos for advertisement over a video data stream (column 6, lines 38-50), advertisements may be associated with a tracked object or may be set to track along with an object or appear in a fixed position anywhere on a screen (column 6, lines 6-16, column 17, lines 15-33), a retrieval plan 55 (annotation stream) is transmitted along with a video stream 53 to a user device which instructs the device where to position the advertising data (column 13, line 18-column 14, line 20), thus enabling advertising content to be placed anywhere on a screen while a user watches a program.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Alexander to utilize the video programs and retrieval plans of Rangan, thus enabling advertising content to be placed anywhere on a screen while a user watches a program. There is motivation to combine as both references are directed to the same problem that is placing advertising content on screen to a viewer.

The references do not teach away from one another as both references are directed to the same problem, that is placing advertising content on screen to a viewer. In particular Alexander teaches the use of video advertisements (column 34, lines 10-35), which are displayed within a program guide, and the use of retrieval plan which dictates where advertisements are to be placed. Rangan discloses that advertisements may be placed anywhere within a video program according to data received at the STB. It would be desirable, to modify Alexander to utilize the video programs and retrieval plans of Rangan, thus enabling advertising content to be placed anywhere on a screen while a user watches a program.